

INSIDE STRAIGHT THE THIRD BRANCH

A Viewer's Guide and Student Worksheet

[Viewer's Guide](#) [Student Worksheet](#)

This guide provides a brief outline of the videotape "Inside Straight: the Third Branch." In addition to descriptions of scenes from the videotape, additional background information is provided and links are made to other components of this curriculum. By clicking on the links, you will see the materials provided to help students develop a deeper understanding of the legal topic.

I. Video Title and Introduction

A. Printed in screen:

"INSIDE ...known only to insiders; private; thorough, complete."
"STRAIGHT...not qualified; modified; accurate: properly arranged."

B. Discussion questions:

1. Why do you think they gave the video this title? What does it mean?
2. Rank the three branches of government in order of importance. How did you rank them and why? Discuss how the Constitution established the branches in order starting with the Legislative Branch in Article I, not getting to the Judicial Branch until Article III. Have students compare their order to that of the founders. The Founders often referred to the judicial branch of government as the "least dangerous branch." What did they mean by this?

Alexis de Tocqueville said

"Scarcely any question arises in the United States which does not become, sooner or later, a subject of judicial debate."

Is this statement consistent with "least dangerous branch?" What do you think of the role of the judiciary in solving today's problems?

II. Football Analogy

A. Discussion question: How can football be compared to our legal system?

- B. Rights are protected but they are not unlimited.

The girl mentions that she has three rights: the right to remain silent, protection against unreasonable search and seizure, and free speech.

Discussion: Ask students what other rights they have (see the [United States Constitution](#) and the [Minnesota Constitution and Bill of Rights](#)).

III. Purpose of Courts:

- A. Discussion: What is the relationship between the police and the courts?

Answer: The police are a part of the executive branch. They enforce the law. The courts interpret the law. They decide if it was applied fairly (e.g. did the police follow the law during the arrest, etc.)

- B. Printed on screen:

“Make sure the laws don’t violate the Constitution.
Protect society
Preserve order
Make sure laws are applied to everyone. Fairly!”

IV. Cocaine Case: *State v. Russell*

[See Cocaine Case Lesson](#)

Discussion question: Would it be fair for schools to have different rules and consequences for cigarettes and chewing tobacco? (Perhaps ask students if there is a gender difference in the usage of these two products. Does that matter?)

V. The Sunday Closing Case: *State v. Target*

[See Sunday Closing Case Lesson](#)

The [Fourteenth Amendment to the U.S. Constitution](#)

Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

VI. 1850's case.

A. Definition: “scalawag” is an informal term referring to a reprobate or a rascal. After the Civil War it referred to white southerners who cooperated with northern “carpetbaggers” during reconstruction. The term originally referred to an undersized or worthless animal. Information from The Grolier International Dictionary.

B. Justices of the Peace.

Lay judges [justices of the peace] played a significant role in the administration of justice in Minnesota for more than 100 years. They initially presided over virtually all of the lower courts of the state. Only gradually were they displaced by lawyer professionals. This early reliance on lay judges was only natural, since there were few lawyers in the state. The first law schools did not open until the 1880's; before that time, lawyers acquired their legal education through apprenticeship.

In the Minnesota Territory, there were only three professional law-trained judges, all appointed by the president. Sitting separately, they tried cases in each of the three judicial districts of the territory; sitting together, they formed the supreme court of the territory and heard appeals from one another's cases. Everyday justice was provided in each of the counties by justices of the peace and probate judges, who usually were not lawyers.

For the Record

VII. Appeals

A. Statistics: In 1998 there were 2 million cases in district court. 2044 of those cases went to the Court of Appeals.

B. Levels of courts today as compared to 1850: Early in Minnesota history, cases heard by justices of the peace and probate judges were appealed to the district courts. Today the first level of courts are called district courts and cases heard at the district court level are appealed to the Court of Appeals or in limited cases (e.g., first degree murder) to the Supreme Court.

C. Football analogy: sometimes two officials on the field might disagree. The referee is the final authority and settles disputes. When the district court and

court of appeals are unable to resolve disputes, the Supreme Court has the final word.

VIII. The Driveway Case

[See Driveway Case Lesson](#)

IX. The Amish Buggy Case

[See Amish Case Lesson](#)

IX. Involvement in the judicial system

A. Judicial Elections

Discussion: Federal judges keep their jobs for life until they retire, resign, are impeached (very rare), or die. Minnesota judges have to be reelected by the people. Which system do you think allows for a better judicial system?

Discuss the strengths and weaknesses of an election system: bad judges can be impeached, but how do people decide who the best candidate is in a judicial election? Judges can't campaign on issues or be endorsed by a party. All they can run on is their previous record, reputation, and qualifications. To be impartial and fair, judges should not enter a case with a bias or a preconceived position.

Given this, how do you think a person can mount a case against a judge? Should the rules be changed to make elections for judges the same as for any other office? Should the rules be changed to give state judges their jobs for life?

[See Selection of Judges Lesson.](#)

B. Jury Duty

Discussion: The students had a negative response to the words "jury duty." Why? Ask if they know people who have been on a jury or "gotten out of it." Discuss why people try to avoid jury duty. Is this a good or a bad thing? Should people who don't want to sit on a jury have to? Why do we have juries? Why not just have judges decide cases at all levels of the courts?

[See The Jury System](#)

C. Magna Carta

1. Chief Justice Kathleen Blatz said that, "Our system of law... began in England when the King and the people signed an agreement that

government did not have unlimited power.” The agreement she is referring to is called the Magna Carta, which was signed June 15, 1215. The English King who signed the Magna Carta was King John brother of Richard the Lionhearted who has been made infamous as Prince John in many Robin Hood tails. English nobles who were fed up with King John’s abuse of their rights forced him into this compact.

See the Magna Carta Lesson in [“Learning More About.”](#)

Read the Magna Carta at www.nara.gov/exhall/charters/charters.html.

2. As part of limiting the powers of the English monarch, the Magna Carta went a long way towards establishing the right to a trial by jury. One Minnesota Handbook for Jurors includes the following quotation from the Magna Carta on its first page:

No freeman shall be taken or imprisoned, or disseised, or outlawed, or banished or in any way destroyed nor will we pass upon him, nor will we send upon him, unless by the lawful judgment of his peers, or by the law of the land.

“To none will we sell, to none will we deny, or delay, right or justice.”

RESOURCES

Minnesota Court System www.courts.state.mn.us

Minnesota Center for Community Legal Education www.ccle.fourh.umn.edu

For the Record: 150 Years of Law & Lawyers in Minnesota, Minnesota State Bar Association, 1999

Case Studies

[Cocaine Case: State v. Russell](#)

[Sunday Closing Case: State v. Target](#)

[The Driveway Case](#)

[Amish Case: State v. Hershberger](#)

INSIDE STRAIGHT

1. What three rights does the girl in the video mention?

2. What is the relationship between the police and the courts?

3. Give one of the three main objectives of the court system described in the video.

4. Why did Judge Alexander believe Minnesota's cocaine laws were unfair?

5. What amendment to the U.S. Constitution did the courts decide the Sunday sales laws violated?

6. Give an example of the courts dealing with something other than unfair laws or lawbreakers.

7. In the 1850's case from Minnesota Territory history, what was the judge's title?

8. How many district court judges are there in Minnesota today?

9. 72% of Minnesota's cases deal with what?

10. What is the purpose for the court of appeals?

11. How do judges in Minnesota get and keep their jobs?

12. What are the two easiest ways described by the Chief Justice for us to participate in the legal system?

13. What two common kinds of participants in a trial are not present at the Supreme Court level?